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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/734,205

12/15/2003

Radek Caba

R.304476

4781

7590 01/09/2007
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EXAMINER

PILKINGTON, JAMES

ART UNIT

PAPER NUMBER

3682

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/734,205	Applicant(s) CABA ET AL.	
	Examiner James Pilkington	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 12, 13, 16, 17 and 20 is/are rejected.
- 7) ☒ Claim(s) 4-11, 14, 15, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/13/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species II in the reply filed on 10/25/06 is acknowledged.

Claim Objections

2. Claims 1-20 are objected to because of the following informalities:
 - Reference characters should be removed from the claims. Currently, with the use of the reference characters, it appears that the claims are only drawn to Species I which is the non-elected species.
 - Re clm 5, the applicant is advised that the term "integrally" does not mean that the device is made as a single piece has clearly shown in the drawings. If the applicant is seeking coverage for the stops made as one with the pedal or block they are advised to change the claim to read "as one homogeneous piece"

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3682

Re clm 1, the phrase "and/or" in line 11 renders the claim indefinite as it is unclear to the examiner whether the claim requires just one of the elements to have elasticities or both of the elements.

Re clm 1, the phrase "whereby" in line 11 renders the claim indefinite as it is not clear to the examiner if any structure or steps recited after the phrase is required by the claim. See MPEP 2106.

Re clm 3, the phrase "at least one wedge protruding in the direction of the pivot axis" renders the claim indefinite. It is not clear to the examiner as to what part of the wedge is protruding in the direction of the pivot axis. Does the applicant mean that the inclined surface of the wedge protrudes from the bearing block in the direction of the pivot axis?

Re clm 3, the phrase "that opens into a step" in line 4 renders the claim indefinite as it is not clear to the examiner how a wedge face "opens" into a step. Does the applicant mean that the wedge ends in a step which extends from the surface of the block/pedal to the high point of the wedge?

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3682

6. Claims 1-2, 12, 13, 16, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Djordjevic, USP 6,520,046 originally published as PG Pub 2002/0112560 on August 22, 2002.

Re clms 1-2, 12, 13, 16, 17 and 20 Djordjevic discloses an accelerator pedal module comprising:

- A bearing block (14)
- A pedal lever (12) held rotatably about a pivot axis (about shaft 34) by means of a pivot connection on the bearing block (shaft 34 is mounted in holes on the pivot block)
- First stop means (bottom of bearing block 14, character 20, which contacts stoppers 21)
- Second stop means (21) on the pedal lever (12) in position to strike the associated bearing block stop
- Wherein the pedal lever stop (21) and the bearing block stop have a geometry which prevents the pivot connection, once completed from being undone (the stops prevent over rotation)
- Wherein the pedal lever stop (21) and the bearing block stop (20) together form an idling stop (prevents the pedal from coming disconnected therefore the stops creates an idling stop)
- Wherein the pedal lever stop (21) is resiliently prestressed against the bearing block stop (20, by spring assembly) counter to a pedal actuation

Art Unit: 3682

direction (when not actuated the pedal is biased so that the top pedal stop is in contact with the bearing block stop)

Allowable Subject Matter

7. Claim 3 would be allowable if rewritten in independent form and amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

8. Claims 4-11, 14, 15, 18 and 19 are objected to as being dependent upon a rejected base claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Pilkington whose telephone number is (571) 272-5052. The examiner can normally be reached on Monday-Friday 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3682

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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12/26/06.

A handwritten signature in black ink, appearing to read 'Richard Ridley', is written over a circular stamp.

RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER